IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.26636 of 1998

Dated: April 12, 2007

Between:

Warangal Cloth Merchants Association,
Represented by its Secretary Sri Manchala Markandeya,
S/o. Veeraiah, aged about 70 years, R/o.15-9-50,
Ramannapet, Warangal.

… Petitioner

And

The Warangal Municipal Corporation, Warangal,
represented by its Commissioner, Warangal,
and another.

… Respondents

Order:

Petitioner, a Cloth Merchants Association of Warangal District, has filed this Writ Petition seeking Mandamus to declare the action of the respondents in issuing notice dated 17-08-1998, in Roc.No.F3/335/2,S.IV/98, whereby directions were issued for closure

of cloth shops of the members of the petitioner-association on the ground that they are running business in cloth, without obtaining license as contemplated under Section 521 of the A.P. Municipal Corporation Act, 1994 ('the Act' for brevity).

2. In the affidavit filed in support of the Writ Petition, it is stated that members of the petitioner-association are running cloth business and the impugned notice, which is purported to be a final notice, has been issued to one of its members. The case of the petitioner is that though in the impugned notice it is stated that notice dated 10-01-1998, under Section 521 of the Act, has been served to one its members, no notice whatsoever has been received by them. The grievance of the petitioner is that without giving any prior opportunity to the petitioner, the impugned notice has been issued.

3. Learned counsel for the petitioner submits that Trade License, as contemplated under Section 521 of the Act, is required to be obtained only for doing trade in any of the articles specified in Part I of Schedule P. It is specifically pleaded in the affidavit filed in support of the Writ Petition that the term 'cloth' does not fall within the meaning of the articles as shown in Schedule P; hence no license need be obtained for trading in cloth.

4. This court, while admitting the Writ Petition, by order dated 24-09-1998, passed in WPMP No.32360 of 1998, directed the respondents not to interfere with the trade or business run by any of the members of the petitioner-association, pending further orders.

5. Though the Writ Petition is of the year 1998, no counter affidavit has been filed till date and there is no representation on behalf of the respondents. The interim order passed by this court has been

continuing all along.

6. As per Section 521 of the Act, no person shall keep any article specified in Part I of Schedule P without obtaining due license. However, it is the case of the petitioner that the impugned notice for closure of business was not preceeded by any prior notice or opportunity. Whether the members of the petitioner-association have been carrying on trade in cloth in contravention of Section 521 of the Act, is a matter to be enquired into after giving due notice and opportunity. Though petitioner has specifically alleged in the affidavit that the impugned notice is not preceeded by any show cause notice or opportunity, respondents have not filed counter affidavit controverting the allegation.

7. In these circumstances, I set aside the notice dated 13-08-1998 and the remit the matter for fresh consideration and disposal. If the respondents are of the opinion that the business carried on by the members of the petitioner-association requires license as per the provisions of the Act, they shall issue prior notice and opportunity to them and pass appropriate orders.

8. The Writ Petition is accordingly disposed of. No costs.

JUSTICE R. SUBHASH REDDY.

April 12, 2007
MRR